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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,012	02/04/2004	Todd J. Lutz	7.166	5329
7590	08/16/2004		EXAMINER	
Timothy E. Newholm BOYLE, FREDRICKSON, NEWHOLM, STEIN & GRATZ, S.C. 250 Plaza, Suite 1030 250 East Wisconsin Avenue Milwaukee, WI 53202			ADDIE, RAYMOND W	
		ART UNIT	PAPER NUMBER	3671
DATE MAILED: 08/16/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/773,012	LUTZ, TODD J.	
	Examiner	Art Unit	
	Raymond W. Addie	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 04 February 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 February 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities:
Claim 1, ln. 8; the phrase "the platform assembly", should be --a platform assembly--; since this is the 1st recitation of a platform assembly. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 9-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Rijkers # 6,322,286 B1.

Rijkers discloses a vibration restraint (10) configured for mounting on a portable vibratory screed machine (1) powered by an engine including a housing (8) mounted on a frame (22), the engine being coupled to a drive shaft (unnumbered see Fig. 2), which is configured to drive a vibratory assembly (7). The vibratory assembly (7) being coupled to the frame (22) and a screed plate (2), which is intended for surfacing a poured concrete surface. The vibration restraint (10) being configured to reduce vibration of the engine, the vibration restraint (10) being radially spaced from the drive shaft and having a 1st top end and a 2nd bottom end, that is opposite the 1st end. The 1st

end being coupled to the engine housing (8) and 2nd end being coupled to a platform assembly (29).

In regards to Claims 2-4, 9 Rijkers discloses a flange (21) disposed at the 2nd, bottom end of the restraint (10), the flange (21) having openings (36,19) configured to receive fasteners (24) coupling the flange (21) to the frame (22), see Fig. 3. As well as openings (20) on the 1st, top end of the restraint (10) intended to receive fasteners (26) coupling the 1st end to the engine housing (8); and that the restraint (10) is shaped, as at (31) to generally conform to a contour of a portion of the engine housing to which the restraint is attached. See Fig. 2; col. 2, ln.39-col. 4, ln. 11. Although Rijkers does not explicitly recite the engine having bores configured to receive said fasteners (26), it is inherent from the teaching in col. 3, Ins. 11-15, that fasteners (26) are received within the engine housing to secure the engine to the vibration restraint device.

In regards to Claims 5-7 Rijkers discloses the restraint (10) is configured to restrain vibration in a direction generally parallel to the drive shaft, such that the restraint (10) comprises at least one plate (32, 33), which are configured to be coupled to the frame. Wherein the said at least one plate (32, 33) includes a 1st portion that extends upwardly at an incline from a 1st end thereof and a 2nd portion (21) extending downwardly from a 2nd end thereof, such that the 1st portion is inclined relative to the 2nd portion. See Fig. 2; Col. 3, Ins. 7-35.

In regards to Claims 10- Rijkers discloses a portable vibratory screed machine (10) comprising:

A machine frame (22) having a reference structure (22).

An engine having a housing (8) and a rotational output, in the form of a vibration generating assembly (7).

A mount (31) that surrounds a drive shaft (unnumbered see Fig. 2) such that the drive shaft is rotationally coupled to the engine output (7).

A vibration restraint (10) configured to restrain vibration of the engine, the vibration restraint (10) directly coupling the engine housing (8) to the reference structure (22) at a location (25) that is spaced apart from the mount (31).

Wherein the vibration generating assembly (7) is located remote from the engine, the vibratory assembly (7) being drive by said drive shaft. See col. 2, ln.39-col. 3, ln. 17.

In regards to claims 11-13, 20 Rijkers discloses the reference structure (22) includes a mount plate (22) on which the engine mount (31) is supported. And wherein the restraint (10) comprises a plate (14) that has a 1st, top end (31) attached/directly coupled to the engine housing (8) and a 2nd end terminating in at least one flange (32, 33) that is configured to receive fasteners (24) for directly coupling the at least one flange (32, 33) to the mount plate (22). Such that a portion (31) of the plate (14) is shaped to generally conform to a contour of a mating portion of the engine housing. See Fig. 2; col. 3, Ins. 3-53.

In regards to Claims 14-19 although Rijkers discloses a vibration restraint (10) configured to restrain vibration in a direction generally parallel to the central axis of the drive shaft, independent of the drive shaft; Rijkers does not explicitly recite the engine operating speeds nor the extent to which the vibration restraint is intended to prolong the service life of the engine. However, Rijkers clearly illustrates a small, gas powered engine, inherently capable of operating in the range of 5,000-6,000 rpms. Further the vibration restraint device (10) is directly coupled to the engine and the frame (22) via a plurality of vibration dampeners (27, 28), which inherently are operable to reduce the most if not all engine vibrations transmitted to the operators handle (4). See Fig. 2; Col. 3, Ins. 16-23.

In regards to claims 21-23 Rijkers discloses a method of making a portable vibratory assembly mounted on a reference structure (22) of a portable vibratory screed machine (1) comprising the steps of:

Operating the engine to drive a vibratory assembly (7), for generating vibrations.
Restraining the engine relative to the vibratory assembly in a direction generally parallel to a central axis of the drive shaft.

Providing a restraint having a 1st top end (31) coupled to the engine housing (8) and a 2nd, bottom end coupled to the reference structure (22). Such that most if not all vibrational movement of the engine is reduced.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rijkers #

6,322,286 B1 in view of Shoup et al. # 5,345,684.

Rijkers discloses a vibration restraint device (10) having a plate (14) comprising a curvilinear shaped cut out (11) intended to receive a drive shaft of an engine (8); but does not disclose providing the drive shaft with a drive shaft housing. However, Shoup et al. teaches it is desirable to provide anti-vibration devices to machines having a gas engine directly coupled to an elongated drive shaft. The drive shaft (53) being encased within a drive shaft housing (13), which in turn is received in a curvilinear opening (27) of a vibration restraining handle assembly (25). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the vibration restraint device of Rijkers, with a drive shaft housing, in order to isolate rotation motion of the drive shaft from undesirable engine vibrations. See Fig. 4; col. 3, ln. 26-col.4, ln. 34.

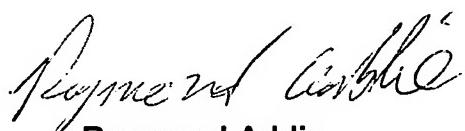
Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Allen et al. # 6,089,787 discloses a manually guided screed assembly. Morrison # 4,386,901 discloses a portable vibrating screed. Owens # 5,984,571 discloses a vibrating manual screed. Lindley # 5,244,305 discloses a portable screed. Owens # 4,340,351 discloses a portable screed truss. Kurten # 6,698,531 B2 discloses a tamper engine housing assembly. Morrison # 4,213,749 discloses a portable vibrating screed.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond W. Addie whose telephone number is 703 305-0135. The examiner can normally be reached on 8-2PM, 6-8PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raymond Addie
Patent Examiner
Group 3600

8/6/04